

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE  
LITIGATION

THIS DOCUMENT RELATES TO:  
ALL CLASS ACTIONS RELATING TO  
TRACK TWO DEFENDANTS

MDL No. 1456

CIVIL ACTION: 01-CV-12257-PBS

Judge Patti B. Saris

**DECLARATION OF DANIEL COGGESHALL  
REGARDING THE CLASS 3 CLAIMS DEADLINE ON THE WEBSITE  
FOR THE TRACK TWO SETTLEMENT**

The undersigned, Daniel Coggeshall, hereby states that:

1. At Class Counsel's request, I submit this Declaration in order to provide the Court and the parties to the above-captioned litigation with information regarding the history of the settlement website, www.AWPTrack2Settlement.com, and in particular, the updating of the Class 3 Consumer webpage; www.AWPTrack2Settlement.com/consumerclass3.htm.
2. I am a Senior Project Administrator at Rust Consulting, Inc. ("Rust") f/k/a Complete Claim Solutions. I am over 21 years of age and am not a party to this action. I have personal knowledge of the facts set forth herein, and if called as a witness, could and would testify competently hereto.
3. Pursuant to the ¶ IV 10. of the Order Granting Preliminary Approval of the Track Two Settlements, Directing Notice to the Classes, and Scheduling Fairness Hearing dated July 2, 2008, Rust established a settlement dedicated website, www.AWPTrack2Settlement.com, which went 'live' on August 2, 2008.

4. The website includes links to specific webpage headings for Consumer, Third-Party Payor, Covered Drugs List, Court Documents and Contact Information which directs you to specific information for each of them. By clicking on the Consumer heading, you are directed to click on an additional heading, “Medicare Part B Consumers” (Class 1) or “Private Health Insurance Consumers” (Class 3).

5. This declaration is submitted specifically to the portion of the settlement website containing Class 3 claim filing deadline information.

6. As previously stated, the website went ‘live’ on August 2, 2008 and the deadline for filing Class 3 claim forms was January 31, 2009. Since then, there have been several orders which have revised the Class 3 claim filing deadline as follows:

Order Date	Revised Class 3 Claim Filing Deadline
January 7, 2009	May 1, 2009
October 7, 2009	February 1, 2010
December 15, 2009	All Filing Deadlines, including claim filing, Suspended (Consumers Only)

7. In response to the Court’s January 7, 2009 Order, Rust updated the website to change the due date for Class 3 claims to May 1, 2009.

8. In response to the Court’s December 15, 2009 Order suspending all dates for notice and approval of the Settlement, Rust updated the website to say “Please note that the relevant deadlines for filing a claim, an objection to the settlement or a request for exclusion have been temporarily suspended until further notice. Consumers can still file claims during this period and are urged to do so.”

9. On February 9, 2011, the Court issued an Order Granting Class Plaintiff's Motion for Approval of Revised Notice Plan and Schedule for Final Approval of the Track Two Settlement revising the Class 1 filing deadlines and **not** the Class 3 filing deadlines. As a result of this Order, Rust updated the Class 1 webpage with the new dates and inadvertently revised the Class 3 filing deadlines, including the filing of a claim, back to the dates specified in the January 7, 2009 Order even though no new filing deadlines were ordered for Class 3.

10. It should be noted that during the entire time (December 18, 2009 to the present), on the website, Class 3 claimants have been encouraged to file claims and have continued to file claims to date.

11. In accordance with Counsel's direction, Rust has updated the Class 3 claim filing deadline to February 1, 2010 on the website. Annexed hereto as Exhibit A is a screenshot of the webpage.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 19<sup>th</sup> day of August, 2011 in Palm Beach Gardens, Florida.

---

/s/Daniel Coggeshall  
Daniel Coggeshall

## **EXHIBIT A**

# AWP Track 2 Settlement

Pharmaceutical Industry Average Wholesale Price Litigation  
Docket No. 01-CV-12257-PBS, MDL No. 1456  
CLASS ACTION INFORMATIONAL WEBSITE

Welcome

Notice

Claim Form

Covered Drugs List

Court Documents

Frequently Asked  
Questions

Contact Information

---

Third-Party Payor

Español

Medicare Consumer

## Class 3 (Private Insurance) Consumer Home Page

**If you made, or are obligated to make, a full cash payment or a Percentage Co-Payment for Certain Drugs, from January 1, 1991 to March 1, 2008, you may be able to get at least \$35 back.**

### The Covered Drug List

### This Class Action Lawsuit May Affect Your Rights.

There is a Settlement of a class action lawsuit with several drug manufacturers concerning approximately 200 drugs. These drugs are used for the treatment of many medical conditions and they are often, but not always injected in a doctor's office or clinic. The name of the lawsuit is *In re: Pharmaceutical Industry Average Wholesale Price Litigation*; Docket No. 01-CV-12257-PBS, MDL No. 1456.

### **What is this Lawsuit About?**

This lawsuit is NOT about whether these drugs are safe or effective. This lawsuit is about the amount that you were charged for the drugs.

The Average Wholesale Price (?AWP?) is used to set reimbursement amounts that are paid by a) Medicare and its beneficiaries, b) private health insurers, and c) consumers making full cash or percentage co-payments under private health insurance plans. The lawsuit claims that Defendants reported false and inflated AWPs for the drugs covered in this Settlement. The Defendants deny any wrongdoing, and the Settlement is not an admission of wrongdoing or an indication that any law was violated

### **How Do I Know if I Am Included in the Settlement?**

You are part of the Settlement if you made, or are obligated to make, a full cash or a percentage co-payment:

- a. Under Medicare Part B for any of the covered drugs listed in the Class A and Class B Drug Lists from January 1, 1991 through January 1, 2005;
- b. Through a private health insurance plan for covered drugs listed in the Class A and Class B Drug Lists from January 1 1991, through March 1, 2008; or

c. A spouse of a deceased class member who made such a co-payment or a legal representative of a deceased class member's estate may file a claim.

You are not a member of a Class if you made flat co-payments, if insurance paid all of your co-payment, or if you were never obligated to make a co-payment at all.

### What Are the Terms of the Settlement?

The drug manufacturers have agreed to pay \$125 million to settle the class action. Approximately \$21.8 million will be available to pay consumer claims.

### When And Where Will The Court Decide On Whether To Grant Final Approval Of The Settlement?

The Court held a hearing on April 27, 2009 at 2:00 p.m. to consider whether it is fair, reasonable and adequate. The Court is yet to approve the Settlement; the request for attorneys' fees and expenses; and any comments or objections. You are not required to attend, but may do so at your own expense.

### Who Represents Me?

The Court has appointed attorneys to represent the Classes. Class Counsel will request that the Court award attorneys' fees not to exceed thirty-three and a third percent (33.33%) of the Settlement Fund, plus reimbursement of expenses. You may hire your own attorney, if you wish. However, you will be responsible for that attorney's fees and expenses.

### Summary of Your Rights and Choices

You May:	
<b>Remain in the Class:</b>	<p><b>Stay in the Class.</b></p> <p>If you wish to remain a member of the Settlement Class and share in the Settlement Fund you must file a claim as outlined in the <a href="#">Notice of Class Action Settlement</a> Question 5 .</p> <p>Due Date for Filing a Claim: <b>The deadline has passed.</b> To be considered timely claims needed to be postmarked on or before February 1, 2010. However if you have not yet filed a claim you may still do so <b>although the claim will be deemed "late" and will require court approval to be paid if otherwise eligible.</b></p>
<b>Exclude Yourself:</b>	<p><b>Get out of the Class.</b></p> <p>If you do not wish to be a member of the Settlement Class, you must sign a Request For Exclusion form as outlined in the <a href="#">Notice of Class Action Settlement</a> Question 7 .</p> <p>Due Date for Request for Exclusion form: <b>The deadline has passed.</b> Exclusions needed to be postmarked no later than March 16, 2009.</p>

**Object or Comment  
to the Settlement:**

**Object or Comment without excluding yourself.**

You can tell the Court if you do not like this Settlement or some part of it if you do not exclude yourself. To object or comment, you must file or serve a letter as outlined in the [Notice of Class Action Settlement](#) Question 8 .

Due Date for Objections: **The deadline has passed.** Objections needed to be filed/served on or before March 30, 2009.

**CERTIFICATE OF SERVICE BY LEXISNEXIS FILE & SERVE**

Docket No. MDL 1456

I, Steve W. Berman, hereby certify that I am one of plaintiffs' attorneys and that, on August 19, 2011, I caused copies of ***Declaration of Daniel Coggeshall Regarding the Class 3 Claims Deadline on the Website for the Track Two Settlement***, to be served on all counsel of record by causing same to be posted electronically via Lexis-Nexis File & Serve.

/s/ Steve W. Berman  
Steve W. Berman